



COMMONWEALTH of VIRGINIA

Office of the Attorney General

William C. Mims
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: L. RICHARD MARTIN, JR.
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Assistant Attorney General

DATE: September 25, 2009

SUBJECT: Proposed Regulation 22 VAC 40-221-10 et seq.
Additional Daily Supervision Rate Structure

I have reviewed the above-referenced proposed regulation, 22 VAC 40-221-10 et seq., Additional Daily Supervision Rate Structure to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state law.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. Specifically, Title 63.2, Chapter 9 addresses foster care. Additionally, Virginia Code § 63.2-319 authorizes the State Board to promulgate regulations directing local departments of social services in the provision of foster care and placement in suitable adoptive homes. It appears that the State Board has the authority to promulgate the proposed regulation, 22 VAC 40-221-10 *et seq.*, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 6 (2006), and has not exceeded that authority.

If you have any questions, please feel free to call me at 786-0095.